

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ARKITA COURTNEY, as Guardian of the Estate)
of ZECHARIAH COURTNEY, a minor,)

Plaintiffs,)

v.)

UNITED STATES OF AMERICA, by and through)
its agents and employees, and ADVOCATE)
HEALTH AND HOSPITALS CORPORATION, an)
Illinois Corporation, by and through its authorized)
agents and employees,)

Defendants.)

NO: 1:19-cv-7486

Honorable Sarah Ellis

PLAINTIFF'S UNOPPOSED MOTON TO STAY DISCOVERY

Plaintiff, ARKITA COURTNEY, as Guardian of the Estate of ZECHARIAH COURTNEY, a minor, by and through their attorneys, McNABOLA & ASSOCIATES, LLC, and moves this Honorable Court for the entry of an Order staying discovery until the after the Department of Health and Human services has made an administrative decision regarding this claim, and in support thereof, states as follows:

1. This cause stems from allegations of a failure to promptly perform an emergency delivery resulting in a permanent brain injury to ZECHARIAH COURTNEY, a minor.

2. On November 13, 2019, Plaintiff filed her Complaint alleging medical negligence against United State of America and Advocate Health and Hospitals Corporation.

3. On June 1, 2022, this Court ordered the closure of fact discovery to occur on February 28, 2022. Dkt. 77.

4. On October 11, 2021, Zechariah Courtney, a minor, died.

5. This Court previously granted Plaintiff's Motion to Spread the Death of Zechariah Courtney of Record. Dkt. 86.

6. On January 18, 2022, Arkita Courtney petitioned the Circuit Court of Cook County – Probate Division, to be appointed the Independent Administrator of the Estate of Zechariah Courtney, deceased.

7. A hearing regarding the proposed above appointment is currently set for April 19, 2022. Plaintiff's counsel reasonably believes an appointment will be made on this date.

8. Plaintiff intends to amend the complaint to add a wrongful death claim, alleging that Zachariah's death was caused by injuries resulting from the alleged negligence in this case. The Federal Tort Claims Act requires administrative exhaustion of the wrongful death claim before it can be added to this district court lawsuit. *Warrum v. United States*, 427 F.3d 1048 (7th Cir. 2005)

9. Following the appointment of an Independent Administrator for the Estate of Zechariah Courtney, deceased, a new Form 95 must be submitted to the Department of Health and Human Services. The Department will have six (6) months to make a determination on the claim once they have received it.

10. In light of the above, Plaintiff seeks an Order staying discovery until the after the Department of Health and Human services has made an administrative decision regarding this claim.

11. Defendants, who continue to contest liability and causation, do not oppose this motion.

WHEREFORE, Plaintiff, ARKITA COURTNEY, as Guardian of the Estate of ZECHARIAH COURTNEY, a minor, respectfully requests this Honorable Court enter an Order

staying discovery until the Department of Health and Human services has made an administrative decision regarding this claim, or for whatever other relief this Court deems just under the circumstances.

Respectfully submitted,

/s/ Edward W. McNabola

Attorney for Plaintiffs

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